

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
*Williamsport Division*

COLUMBIA GAS TRANSMISSION,  
LLC,

Plaintiff,

v.

101 ACRES AND 41,342 SQ. FT.  
MORE OR LESS IN HEIDELBERG  
TOWNSHIP, YORK COUNTY,  
PENNSYLVANIA, *et al.*,

Defendants.

Civil Action # 4:13-CV-00783-MWB

**RULE 56.1 STATEMENT OF UNDISPUTED MATERIALS FACTS  
IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff Columbia Gas Transmission, LLC (“Columbia Gas”) by and through counsel, submits this Rule 56.1 Statement of Undisputed Facts in Support of its Motion for Partial Summary Judgment and For Immediate Possession of the Easements.

1. Columbia Gas is an interstate natural gas company. Compl. ¶ 7; Answer ¶ 7; Affidavit of D. Holley (“Aff. of D. Holley”) ¶ 7.
2. As such, Columbia Gas is subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”). *See id.*

3. Bradley and Elizabeth Herr (collectively, the “Landowners”) own real property located in Heidelberg, York County, Pennsylvania consisting of two tracts, with Tract 1 being a parcel of approximately 101 acres and Tract 2 being a parcel of approximately 41,342 square feet (collectively, the “Property”) over which Columbia Gas is seeking easements necessary to replace a portion of an existing natural gas pipeline. Compl. ¶ 5.<sup>1</sup>

4. The easements Columbia is seeking from the Landowners consist of a permanent easement of 1.03 acres, a temporary construction easement of 0.49 acres, an additional temporary easement of 0.33 acres, and a top soil area of 0.29 acres (collectively, the “Easements”). Compl. ¶ 19; Aff. of D. Holley ¶ 21.

5. The Easements are depicted on Exhibit 3 attached to the Complaint in Condemnation. Compl. ¶ 19.

6. The existing pipeline referenced above is an 8-inch natural gas pipeline located in and around York County, Pennsylvania, designated as Line 1655 (the “Pipeline”). Columbia Gas has operated Line 1655 since the 1950s. Compl. ¶ 8; Aff. of D. Holley at ¶¶ 8-9.

7. On or about January 7, 1983, FERC issued a blanket Certificate of Public Convenience and Necessity (“FERC Certificate”) authorizing Columbia

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<sup>1</sup> Under Rule 71.1(e)(3) of the Federal Rules of Civil Procedure, “[a] defendant waives all objections and defenses not stated in its answer.” The Landowners have not answered or otherwise responded to the Complaint. As such, the allegations in the Complaint are deemed admitted.

Gas “...to conduct many routine activities and abandon facilities and service on a self-implementing basis without further authorization by the Commission.” Compl. ¶ 9; Complaint Ex. 2.

8. In addition to FERC regulation, Columbia Gas’s pipelines, including Line 1655, are subject to regulation by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”). Compl. ¶ 13; Aff. of D. Holley ¶ 10.

9. As part of Columbia Gas’s implementation of the pipeline integrity management process established under 49 C.F.R. § 192.901 *et seq.* by PHMSA, Columbia Gas has confirmed the need to replace a portion of the Pipeline in order to meet rigorous standards of pipeline safety. Compl. ¶ 14; Aff. of D. Holley, at ¶ 10.

10. Columbia Gas is scheduled to begin construction work in connection with the replacement of the Pipeline on or about June 29, 2013. Compl. ¶ 15; Aff. of D. Holley, at ¶ 11.

11. Columbia Gas attempted to acquire the Easements from the Landowners by negotiation. Aff. of D. Holley, at ¶¶ 21-29.

12. Unfortunately, Columbia Gas’s efforts to purchase the Easements were unsuccessful. *See id.*

Dated: May 24, 2013

Respectfully submitted,

**COLUMBIA GAS TRANSMISSION,  
LLC**

By Counsel

/s/ Courtney S. Schorr

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*Counsel for Plaintiff  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of May, 2013 a true copy of the foregoing Plaintiff Columbia Gas Transmission, LLC's Statement of Undisputed Material Facts was filed electronically and served via first-class mail on:

Bradley and Elizabeth Herr  
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*Defendants*

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